



December 4, 2006

STATE OF MICHIGAN  
**Department of  
Human  
Services**

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Marianne Udow, Director

**MICHIGAN DOMESTIC  
VIOLENCE PREVENTION  
AND TREATMENT BOARD**

235 S. Grand Avenue  
Suite 506  
P.O. Box 30037  
Lansing, MI 48909  
Tel: (517) 335-6388  
Fax: (517) 241-8903

**BOARD MEMBERS**

Honorable Amy Krause, Chair  
Princella E. Graham  
Mary Beth Kur  
Honorable Nathaniel C. Perry, III

Debi Cain, Executive Director



JENNIFER M. GRANHOLM, Governor

The Honorable John Stahl  
State Representative  
P.O. Box 30014  
Lansing, MI 48909-7514

Re: HB 5267 Mandatory Joint Custody

Dear Representative Stahl:

I am writing to express the opposition of the Michigan Domestic Violence Prevention & Treatment Board (MDVPTB) to HB 5267, which would, require courts in domestic relations cases to order joint custody unless:

(a) The court determines by clear and convincing evidence that a parent is unfit, unwilling, or unable to care for the child, or

(b) A parent moves his or her residence outside the school district that the child has attended during the previous 1-year period preceding the initiation of the action and is unable to maintain the child's school schedule without interruption. In this case, the court would be required to order the parents to submit to mediation to determine a custody agreement that maximizes both parents' ability to participate equally in a relationship with their child while accommodating the child's school schedule.

The MDVPTB understands domestic violence as a pattern of coercive behavior chosen by the perpetrator and used purposefully to gain and maintain control over a current or former intimate partner. Abusers' controlling tactics include, but are not limited to, physical and sexual assaults, emotional abuse, economic coercion, stalking, property destruction, and threats. The perpetrator's behavior may be directed at other people – including the abused partner's children – as well as at property or animals.

Domestic violence does not end when a couple divorces. Indeed, abuse may escalate as the abuser seeks to exert continuing control over a former partner, with abusive tactics shifting in focus to the children and the legal proceedings. Domestic violence occurs frequently in divorce cases. Information gathered from the Michigan Child Support Enforcement System (MiCSES) database – which includes information on over 90% of Michigan domestic relations cases involving children – shows that in 286,190 out of 1,014,819 open cases, the family violence indicator is set to "yes" for the protection of at least one family member.<sup>1</sup> The family violence indicator will be set to "yes" if a PPO has been issued to protect

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<sup>1</sup> 42 USC 653-654 restricts disclosure of information in the Federal Parent Locator Service (FPLS) if a state has notified the U.S. Secretary of Health and Human Services that it has reasonable evidence of domestic violence or child abuse and that disclosure of information in the FPLS could be harmful to the custodial parent or the child of such parent. The "family violence indicator" is the means by which a state transmits this notice. The FPLS is operated by the federal Office of Child Support Enforcement in the U.S. Department of Health and Human Services to facilitate child support enforcement.

the family member, or if there has been another type of report of violence. These figures show that domestic violence is a factor in 28% of the open caseload on MiCSES.

During and after a divorce, abusers readily exploit joint custody arrangements and mediation processes as vehicles for continued coercion and control. Mediation sessions and exchanges of children to effectuate joint physical custody arrangements give abusers physical access to domestic violence victims, exposing victims and their children to threatened or actual physical harm. Moreover, mediation and joint legal and physical custody arrangements provide abusers with opportunities to do psychological and emotional harm to adult victims and their children by creating opportunities for continued coercion and manipulation. For these reasons, the MDVPTB has a long-standing position opposing mandatory mediation and awards of joint custody in cases involving domestic violence.

Thank you for your attention to the Board's concerns. A representative from MDVPTB will be present at the hearing on HB 5267 on Dec. 6 to answer any questions you may have about the Board's position.

Sincerely

Hon. Amy Krause, Chairperson  
Michigan Domestic Violence Prevention & Treatment Board

CC:

Rep. Tom Pearce  
Rep. Barb Vander Veen  
Rep. Jacob Hoogendyk  
Rep. Fulton Sheen  
Rep. Brenda Clack  
Rep. Dudley Spade  
Rep. Gino Polidori  
Rep. LaMar Lemmons  
Rep. Leslie Mortimer

Rep. Robert Gosselin  
Rep. Bill Huizenga  
Rep. Scott Hummel  
Rep. Chris Ward  
Rep. Shelley Taub  
Rep. Bruce Caswell  
Rep. Edward Gaffney